

January 14, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.,
Washington, DC 20554

Re: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338;

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; and Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147.

Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

Re: In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33

Universal Service Obligations of Broadband Providers, CC Docket No. 02-33

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, CC Dockets Nos. 95-20, 98-10

Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

Notice of Oral Ex Parte Presentation

Dear Ms. Dortch:

On Monday and Tuesday, January 12 and 13, 2004 various members of the High Tech Broadband Coalition (HTBC) including Peter Pitsch of

Intel Corporation, Jeff Campbell of Cisco Corporation, Grant Seiffert of the Telecommunications Industry Association, Jeanine Poltrineri of Motorola, Paul Kenefick of Alcatel, Nick Kolovos of the Information Technology Council, John Boidock of Texas Instruments and Douglas Cooper of Catena Networks met in separate meetings with Commissioner Martin and his legal assistant Dan Gonzalez and with Matt Brill and Pilar Camus of Commissioner Abernathy's Office regarding the above referenced FCC broadband proceedings. Not every one of the above HTBC representatives was in both meetings. In the course of the discussion the HTBC representatives made several points that are set out in the attached HTBC pleading and *ex parte* letter.

In addition to the substantive points made in these documents, they stated:

- The Commission should act expeditiously on the above referenced proceedings.
- Notwithstanding the *Brand X* decision that concluded that cable modem service is a telecommunications service, the FCC has the legal authority to adopt its tentative conclusion that wire line broadband Internet access can be offered under Title I and subject only to minimal regulation. The same approach should be applied to stand-alone broadband transport service offerings.
- The FCC's well established authority to permit companies providing a telecommunications service to offer it as telecommunications under private carriage subject to Title I is unaffected. *Brand X* at n. 14.
- So while the court decision precludes the FCC from using Title I to define broadband services as an information service, the FCC can achieve the same result by allowing companies to operate under private carriage.
- This approach is consistent with HTBC's letter and principles filed with the Commission on September 25, 2003.

Pursuant to Section 1.1206(b) of the Commission's Rules, an electronic copy of this letter is being submitted to the Secretary's Office and

to the above referenced persons. Please inform me if any questions should arise in connection with this filing.

Respectfully submitted,

Peter Pitsch

cc:
Commissioner Martin
Dan Gonzalez
Matt Brill
Pilar Camus